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SUMMARY RECORD OF THE 5TH MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 2 March 1997, at 3 p.m.

Chairman: Mr. SOMOL (Czech Republic)

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The meeting was called to order at 3.20 p.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE (agenda item 4) (continued) (E/CN.4/1997/13-16, 107, 109, 111, 116 and 117)

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (agenda item 7) (E/CN.4/1997/23)

1. Mr. ZAHRAN (Egypt) said that the unanimous declaration by the Arab delegations at Cairo in June 1996 of their determination to continue the peace process required a matching commitment by Israel. Any failure on the part of Israel to respect its commitments to the agreements reached at the Madrid Conference would lead to a failure of the peace process and a return to the cycle of violence and tension. Negotiations should be resumed in accordance with the agreed timetable since delay would jeopardize the attainment of a just and lasting peace that would ensure the national rights of Palestinians, including their inalienable right to self-determination. He noted Syria's readiness to re-enter the negotiations.

2. The expansion of settlements was unacceptable: it ran counter to international law, hindered the peace process and should be halted. Peace could be achieved only through finding a solution to the problem of Jerusalem and guaranteeing the right of Palestinians to return to the city, agreeing to pay compensation and respecting other United Nations resolutions. Arabs must enjoy the same rights in Jerusalem as Israelis. He thus welcomed the remarks made the previous day by the spokesman for the European Union, who had called the Israeli settlement policy incompatible with international law.

3. Israel must respect the agreements already reached: it should stop building new settlements in the Golan - indeed, it should withdraw altogether - and it should comply with Security Council resolutions regarding Lebanon.

4. Peace could be achieved in the Middle East only on the basis of the elimination of nuclear, biological and chemical weapons, in respect of which all parties should be placed on an equal footing. Only with the elimination of weapons of mass destruction could the peoples of the region live in peace and stability. While his delegation was opposed to terrorism from any quarter or in any form, it was equally opposed to repressive measures against innocent civilians, which were a flagrant violation of all the international conventions.

5. Mr. Yong-Shik HWANG (Republic of Korea), having welcomed the signing of the Protocol Concerning the Redeployment in Hebron, said that peace in the Middle East region could best be described as fragile. He urged all parties to the peace process to prevent extremism from derailing their quest for a permanent peace. Human rights were central to any lasting peace, because human rights violations only reinforced the prevailing mistrust in the region, and led to violence. In that context, he noted with pleasure that respect for human rights had advanced to a certain degree, as evidenced by the recent release of 31 female Palestinian prisoners.

6. Palestinian economic development was crucial in improving the human rights situation, since an enhanced quality of life reduced the inclination to resort to violence. It was in that belief that his Government had supplied an assistance package of some US$ 12 million following the signing of the Declaration of Principles on Interim Self-government Arrangements in 1993 and a further US$ 3 million in 1996. It was also involved in funding projects at a regional level relating to economic cooperation, development, desalination and training.

7. In the conviction that the enhancement of individual welfare through economic development was a necessary step to the accomplishment of a true peace, his Government would continue to play its role in striving for sustainable development in Palestine. It also hoped that the principle of self-determination would be respected.

8. Mr. JOKONYA (Zimbabwe), after deploring the acrimonious note which had crept into the debate, said that oppression and repression could be dealt with only by tackling the root cause; human rights violations in the occupied Arab territories could be ended only by an immediate and unconditional end to the occupation.

9. He welcomed the condemnation of Israeli intransigence by the European Union, and agreed that the Palestinian Authority must also rid its security forces of those who violated human rights. However, lapses by the State apparatus of the Palestinian Authority could not be compared with the horrors inherent in occupation. It would be insane to renege on the Oslo Agreements and he condemned the current Israeli leadership's decisions to build new settlements in south-east Jerusalem and close the offices of the Palestine Liberation Organization in east Jerusalem.

10. He called on the Commission to take a firm stand against the occupation by Israel of foreign territory, which was an affront to human dignity. He hoped that the European Union's attempt at even-handedness and its desire, in conjunction with some of its allies, to raise respect for human rights to the level of a global ethic were genuine, and not simply another attempt by the strong to use human rights issues as geopolitical tools. Unfortunately, to judge by the protection afforded to an occupying Power in certain international forums, the powerful still exacted what they could and the weak still granted what they had to.

11. Mr. MADADHA (Observer for Jordan) reiterated his Government's commitment to finding a just and comprehensive solution to the problems of the Middle East. Unfortunately, peace and stability in the region and fundamental human rights were being jeopardized by the current settlement policies of Israel, which legal experts had found to be in breach of international law and international agreements. Its settlement activities on territory over which it had no sovereign rights violated the Fourth Geneva Convention, as pointed out in the Special Rapporteur's report (E/CN.4/1997/16).

12. Furthermore, its settlement activity in Jerusalem was killing off the peace process. His Government refused to accept any change in the status quo

that might affect the final status of Jerusalem. While earlier Israeli Governments had allowed the peace process to take root by freezing the construction of new settlements, the policies of the current leadership could not but lead to further violence.

13. The rights to personal dignity and self-determination were at the very heart of the peace process. He called on the Government of Israel to recognize that fact and to face up to the consequences of its policies on the stability of the region. He urged that Government to generate trust and confidence by cancelling its decisions to build new settlements in the occupied Arab territories, particularly in east Jerusalem. He welcomed the approach taken by the European Union and urged the United States, which had made an invaluable contribution to the peace process, to take a firm stand on the question of settlements and use its influence to avoid a crisis. For its part, the Commission should condemn Israel's destructive settlement policies.

14. Mr. MORJANE (Observer for Tunisia), speaking on behalf of the Arab Group, said that the Arab countries which had initiated the Middle East peace process at Madrid in 1991 had been driven by a sincere desire for a just and lasting peace on the basis of the "land-for-peace" principle. However, the peace process had almost totally collapsed as a result of Israel going back on its international agreements. Its decision to build a new settlement in Jerusalem would change the historic character of that city, and was an illegal act on territory occupied by force of arms.

15. The Arab Group strongly condemned the Israeli decisions to build new settlements, which were contrary to the spirit and letter of international conventions and resolutions, as well as being a threat to the stability of the region. The international community had rightly condemned Israel's attempt to change the geographic and demographic configuration of Jerusalem.

16. He therefore urged the Commission to do everything in its power to persuade Israel to cancel those decisions. He called on those countries that supported Israel financially to withhold aid until Israel honoured its international agreements. Finally, he voiced support for the peoples of Palestine, the Syrian Arab Republic and Lebanon in their struggle against the occupation and in their search for a durable peace based on international law.

17. Ms. TEXIER (France Libertés: Fondation Danielle Mitterrand), having recalled the statement made by her organization at the previous session on the subject of East Timor (E/CN.4/1996/SR.5), said that an event of world importance had since taken place, namely, the award of the Nobel Peace Prize jointly to the Bishop of Dili and to Mr. José Ramos Horta, the advocate of a peace plan known as the plan of the National Council of Maubere Resistance (NCMR). That plan, which opened the door to fruitful negotiations capable of leading to a just and lasting peace, deserved to be closely studied and promoted by the Commission and supported by the Security Council.

18. There had been a complete lack of positive developments in the Western Sahara, as evidenced by the breakdown of discussions betweeen the Crown Prince of Morocco and members of the Frente POLISARIO. Morocco, which continued to do everything in its power to prevent the holding of the

referendum envisaged by the Security Council peace plan and scheduled originally for 1992, was floating the idea of regional autonomy on condition that the Sahrawis gave up their claim to independence.

19. The Frente POLISARIO had expressed its readiness to engage in direct negotiations with Morocco in the presence of a mediator and in a neutral country, while the new Secretary-General of the United Nations had recently expressed himself in favour of holding the referendum. The parties to the conflict should thus be encouraged to resume their meetings on the terms requested by the Frente POLISARIO.

20. Ms. NEURY (Centre Europe-Tiers Monde) said that very little had changed in the life of the Sahrawi people since the Commission's fifty-second session. Morocco was making it increasingly difficult for impartial journalists and representatives of human rights organizations to circulate freely within the area or even to enter it. The conflict in Western Sahara was a straightforward case of decolonization that could easily be resolved if the international community had the political will to compel Morocco to conform to the spirit and the letter of the initial Peace Plan. In the absence of such political will, the international Community was an accomplice to the violation of human rights in the area. She thus called on all States to cooperate with Moroccan, Sahrawi and international non-governmental organizations (NGOs) with a view to reducing tensions in the area and providing mediation services between the Government of Morocco and the Frente POLISARIO.

21. Mr. van WALT van PRAAG (Transnational Radical Party) said that his organization had been shocked but not surprised by reports of violence in the Chinese province of Xinjiang, which reflected the frustration felt by the Uigurs after decades of oppression aggravated by a massive population transfer of Chinese into the region and the silence of the human rights bodies. While it was dinstinctly doubtful whether Uigurs were responsible for the recent bomb attacks, there was grave danger that Xinjiang might become the scene of violent uprisings and repression unless its people were given reason to hope for a better future.

22. Governments, international organizations and the media were inclined to take serious notice of a situation only when violence broke out. If non-violent movements were not given the respect they deserved, they would turn to violence and the number of deadly conflicts in the world would increase. The people of Tibet, for example, had been asking the Commission for years to express its concern at the human rights situation in their country and to urge the Chinese Government to respond to the Dalai Lama's overtures for negotiations. An announcement by China's leaders that they were willing to meet the Dalai Lama or his representatives to start a serious process of negotiation on Tibet would surely generate an immense amount of goodwill.

23. Rather than using coercion, as the Nigerian Government had done in suppressing the Movement for the Survival of the Ogoni People (MOSOP), States must be persuaded to resolve self-determination issues by dialogue and negotiation. It was tragic that Russia had not resorted sooner to negotiations with the elected representatives of the Chechen people to resolve the situation in Chechnya. The forthcoming negotiations between the

Indian Government and the Naga leadership was to be welcomed. In Bangladesh, a third round of negotiations between the new Government and the self-determination movements of the indigenous Jumma peoples of the Chittagong Hill Tracts was due to begin shortly and should be encouraged by the international community.

24. In Papua New Guinea, despite the positive outcome of peace talks on Bougainville held in December 1995, the Government was using highly paid mercenaries to wipe out the people's movement on the island. The Commission should urge the Government of Papua New Guinea to abandon its ill-advised mercenary adventure and use the millions of dollars saved to finance a proper peace process under the auspices of the United Nations.

25. Although talks between Indonesia and Portugal on the subject of East Timor were continuing, Indonesia clearly lacked the political will to address the East Timorese people's legitimate claim to self-determination. The Government of Georgia also appeared to be retreating from its earlier commitments to negotiate in earnest with representatives of Abkhazia on the subject of that territory's future.

26. He urged the Commission to take self-determination movements seriously in the context of its human rights mandate and, instead of waiting for armed conflict to break out, to encourage efforts towards peaceful change through dialogue.

27. Ms. AULA (Pax Christi International), said that she applauded the Special Rapporteur's desire not to adopt an accusatory approach but, rather, to seek a meaningful and constructive dialogue with all the parties concerned and help to overcome the human rights problems in the occupied Arab territories (E/CN.4/1997/16, para. 4). It was to be regretted, therefore, that only informal meetings between the Special Rapporteur and representatives of the Government of Israel had proved possible.

28. The most serious development from the legal point of view was the decision of the Israeli High Court of Justice to authorize the use of force in the interrogation of suspects, a ruling that was tantamount to sanctioning torture and ill-treatment in violation of Israel's international obligations. The Special Rapporteur also pointed out that the closure of the occupied territories imposed by the Israeli authorities in the wake of security incidents in February and March 1996 amounted to collective punishment in violation of article 33 of the Fourth Geneva Convention (para. 24). Moreover, settlement expansion, which presupposed the confiscation of Arab-owned land in the occupied territories, violated articles 53 and 49 of the Fourth Geneva Convention. Lastly, Palestinian residents of East Jerusalem were reported to be increasingly treated as resident aliens by the Israeli authorities (para. 31).

29. The recent decision to authorize the construction of a new Jewish settlement in East Jerusalem had been unanimously criticized throughout the world, not least by Pope John Paul II.

30. Her organization appealed to Israeli citizens to oppose the dangerous policies instigated by an extremist minority and also appealed for international solidarity in support of the Palestinian population suffering

under a military occupation that should be ended according to schedule and in the spirit of the Peace Accords through negotiations conducted in reciprocal good faith.

31. Her organization was also seriously concerned at the deterioration of the situation in Bougainville, where 40 mercenaries belonging to the South African company "Executive Outcomes" who had reportedly been hired by the Papua New Guinea authorities as "military advisers", had apparently been directly involved in military operations. She supported the proposal by the Solomon Islands to bring the case before the International Court of Justice.

32. The crisis affecting the Kosovo region of the former Yugoslavia for the past seven years could be resolved only by recognition of the Kosovo population's right to self-determination. Peace had so far been preserved in the region because of the willingness of the ethnic Albanian population to achieve independence by peaceful means under an international protectorate.

33. Her organization was also concerned at Morocco's continuing refusal to apply the 1988 Peace Plan for Western Sahara and by the fact that none of the Commission's recommendations concerning East Timor had been implemented by the Government of Indonesia. It called for the adoption of a policy of national reconciliation in Afghanistan and the cessation of foreign interference in that country's affairs.

STATEMENT BY THE MINISTER FOR FOREIGN AFFAIRS OF THE NETHERLANDS

34. Mr. VAN MIERLO (Netherlands), speaking on behalf of the European Union and of the associated countries of Bulgaria, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia, said that human rights would be fundamental in the new century to both international and domestic affairs. Concerted action would, however, be needed to keep human rights at the top of every agenda if the world was not to witness further horrifying loss of life such as had occurred most recently, in Rwanda and the former Yugoslovia.

35. The guardians of human rights fell into three main categories. The first was that of the Member States of the United Nations which, both individually and in regional organizations had increasingly taken upon themselves important commitments to human rights. Human rights were at the core of the European Union and an important element of regional cooperation within the Council of Europe and the Organization for Security and Cooperation in Europe.

36. The Union would continue to combat racism, discrimination and intolerance and had designated 1997 the European Year against Racism and Xenophobia. Its commitment to human rights was also a vital element of its cooperation arrangements with third countries, since all agreements contained paragraphs showing the interdependence of human rights, democracy and development.

37. Sometimes there was no alternative but to confront Governments with their serious violations of human rights in countries where "law" had become the victim of "order" and where civilians had become victims. States should

not give violators of human rights and humanitarian law the impression that their deeds would go unprosecuted, or even unrecorded. For that reason, the Union and its associates attached great importance to the International Criminal Tribunals for Rwanda and the former Yugoslavia, as well as to the efforts to set up an international criminal court.

38. A second guardian of human rights was the United Nations organization itself which, having been the cradle for the formulation of universal human rights, had the crucial role of ensuring their implementation. That task became ever more complicated. The Union and its associates were confident that the new Secretary-General would continue implementing and strengthening the human rights cause. They also welcomed the reforms initiated by the High Commissioner for Human Rights to make the Centre for Human Rights more capable of carrying out its many duties. In that connection, they called on the Secretary-General and the High Commissioner to provide the means to support United Nations human rights treaty bodies, the mandates for rapporteurs, representatives and working groups from the Commission and the programme for advisory services and technical assistance.

39. The work of human rights field officers and monitors was essential, since it complemented that of the Commission's rapporteurs and working groups and of the human rights treaty bodies. The possibility of emergency sessions of the Commission should also be considered. States that provided access to United Nations human rights mechanisms were to be commended.

40. The third guardian of human rights was civil society itself, especially those people and organizations that defended human rights and acted as the conscience of their societies. States should let human rights defenders fulfil their crucial tasks. Had their calls been heeded in Bosnia or Rwanda, reconciliation might have prevented tragedy. The Union and its associates would pay special attention to human rights defenders during the current session. They were working very hard within the United Nations to safeguard such defenders' rights explicitly by adopting a declaration securing their safety and recognizing the importance of their work.

41. That some States should wish to frustrate those efforts was a clear indication that human rights defenders were still at risk, but ironically it also proved how important their message was. Although they were already protected by the international human rights regime, it was important to speak out on their behalf because they were often left without a voice by their own Governments.

42. They included Mr. Moshood Abiola, democratically elected President of Nigeria in 1993 and currently in captivity; Daw Aung San Suu Kyi, Nobel Prize Laureate and distinguished leader of the Myanmar opposition that had won the elections of 1990, currently hampered in her freedom of movement and expression; and Mr. Wei Jingsheng, currently languishing in a Chinese jail. They stood for thousands of people whose only crime was to speak out in favour of human rights and fundamental freedoms. Their Governments, which must be held responsible for their health and safety, should release them or allow an independent judiciary to do its work. The Union had frequently raised the issue of individual human rights defenders and would continue to do so.

43. Human rights might have enemies, but their friends were bound to have the upper hand. The Commission provided those friends - the guardians of human rights - with a meeting place where they could work out better approaches on human rights. Concerted action was required, building on the consensus at the World Conference on Human Rights, with its reaffirmation of the universality of human rights and the belief that human rights were of legitimate concern to the international community.

44. Governments must therefore give the United Nations and civil society the leeway to help human rights forward. They should cooperate with United Nations human rights mechanisms and respect the rights of human rights defenders. In that way, the twenty-first century could be a century in which violations of human rights would be prevented not mourned.

ORGANIZATION OF THE WORK OF THE SESSION (agenda item 3) (continued)

Statement by the Chairman on the hostage crisis in Peru

45. The CHAIRMAN read out the text of a statement which the Commission had agreed upon by consensus:

"The Commission on Human Rights

1. Vigorously condemns the occupation of the residence of the Ambassador of Japan in Lima, Peru, and hostage-taking there by terrorist elements, as well as hostage-taking all over the world;

2. Recalls that it has repeatedly and firmly condemned hostage-taking as acts aimed at the destruction of human rights;

3. Expresses its solidarity with the Governments of Peru and Japan, as well as with the Governments of all countries concerned, and with the hostages and their families;

4. Strongly supports the efforts of both the Peruvian and Japanese Governments to resolve the situation in a peaceful manner and encourages the continuation of the conversations between the interlocutor of the Peruvian Government and the Tupac Amaru Revolutionary Movement (MRTA), to arrive at prompt results;

5. Strongly demands that the hostages taken in the residence of the Ambassador of Japan in Lima and all other hostages held in any other country be released immediately."

STATEMENT BY THE MINISTER FOR FOREIGN AFFAIRS OF FINLAND

46. Ms. HALONEN (Finland), having endorsed the statement made by the Minister for Foreign Affairs of the Netherlands on behalf of the European Union, said that the Council of Europe, of which she was currently the Chairman, was Europe's foremost human rights institution and exemplified the positive role played by regional mechanisms. Its two key achievements were the elaboration of legal norms and the establishment of an effective implementation mechanism, and its aim was to extend, across the entire European continent, a solid legal framework for human rights under which legal

and political issues in all member States would be dealt with on an equal basis. Cooperation with other European organizations was essential in that regard.

47. Regional mechanisms must always be based on universal standards, and experience had shown that regional remedies were not always adequate in given country situations. For example, in one State which was a long-standing member of the Council, imprisonment of members of Parliament for political reasons, and even torture, were still taking place; if the Council's efforts to address that situation failed, the Commission should consider using the various means at its disposal.

48. She welcomed the Commission's thematic approach to human rights issues. The rights of women, children, indigenous peoples and minorities were the priority areas of Finland's human rights policy. Although de jure equality between the sexes existed in many countries, discriminatory provisions concerning family law, property rights, inheritance and even political rights still existed and should be abolished. Moreover, women still did not enjoy de facto equality. To fulfil their duties under international law, States could not confine themselves to refraining from outright discrimination; they must take specific action to promote de facto equality.

49. The Commission should strengthen its role in that regard by making women's rights an integral part of human rights monitoring and reporting. The gender perspective should be incorporated into the mandates of special rapporteurs and into advisory services programmes. Moreover, the Commission should pay close attention to elections and other developments in countries with few women in their legislatures and other elected bodies, since such countries could not be said to be fully democratic and their laws were unlikely to respond to women's needs.

50. The European Union had proclaimed 1997 as the European Year against Racism. Although progress had been made in setting standards for protecting the rights of minorities and indigenous peoples, those rights must be strengthened, not frozen at their current minimum levels. The United Nations should adopt the draft declaration on the rights of indigenous people and establish a permanent forum to ensure the effective participation of indigenous people in the United Nations system.

51. Minority rights should also be addressed on a permanent basis, inter alia by extending the mandate of the Working Group on Minorities. The Council of Europe, recognizing the positive connection between the protection of minority rights and stability, had adopted a Framework Convention for the Protection of National Minorities. Furthermore, all Governments were bound to safeguard the human rights of sexual minorities, regardless of the cultural traditions of the country concerned.

52. She welcomed the progress made towards the establishment of an international criminal court, which would play a major role in deterring serious violations of human rights by greatly increasing the likelihood that those responsible for war crimes and crimes against humanity would be brought to justice. The absence of impunity was a vital condition for lasting peace in post-conflict situations. She admired the determination shown by countries

which had emerged from crises and returned to democratic regimes, such as South Africa and a number of Latin American countries; the whole international community could draw lessons from their experience.

53. Since international human rights norms could not be implemented on a pick-and-choose basis, Finland would continue to protest vigorously against any reservations incompatible with the letter and spirit of international human rights instruments. States must cooperate fully with international human rights monitoring mechanisms; the allegation that such mechanisms pitted developing countries against developed ones was an artificial one that was based on political considerations. For the sake of the victims of human rights violations, the Commission must pursue its work with complete honesty and seriousness.

STATEMENT BY THE SECRETARY OF STATE FOR EMERGENCY HUMANITARIAN ACTION OF FRANCE

54. Mr. EMMANUELLI (France) said that the world human rights situation had been marked by contrasting trends over the last year. During his recent visit to eastern Zaire, he had witnessed the plight of thousands of refugees, who suffered from deprivation, disease and food insecurity. That situation could become catastrophic unless aid was forthcoming. Moreover, there was a real danger that the refugees could be massacred by one or other of the parties to the conflict. If the ceasefire called for by the Security Council was not immediately observed, only the deployment of a multinational force could protect those people and ensure the delivery of humanitarian aid.

55. Meanwhile, in Burundi, the civilian population was hard hit by the effects of sanctions. Since about 1 million people had fled from their homes, humanitarian aid failed to reach them, despite the international community's efforts.

56. In Afghanistan, constant violations of human rights and international humanitarian law were taking place, as noted in the relevant General Assembly and Security Council resolutions. Of particular concern were the living conditions of women and the closing of schools for girls. A dialogue should be pursued with the local authorities to stop the indiscriminate bombardment of civilians. In view of the situation of persons displaced by the country's internal strife, the international community should encourage consultations among the Afghan communities and consider the conditionality of humanitarian aid in Afghanistan. Moreover, a number of volunteers working for a French NGO were being unjustly detained and should be released immediately.

57. Too little attention was being paid to the fate of the people of East Timor and of the ethnic minorities suffering from repression in Myanmar. The thousands of civilians who had fled to the Thai border were at the mercy of combatants who regularly raided refugee camps.

58. Such violations of human rights, which took place on a daily basis throughout the world, were increasingly intolerable, as was the situation with respect to prisoners of conscience, torture, extrajudicial executions, miscarriage of justice, exploitation of children and disregard for freedom of expression and the right to education.

59. At the same time, positive developments had also occurred in the last year. The report on the impact of armed conflict on children (A/51/306 and Add.1), the Amsterdam Conference on child labour and the Stockholm World Congress on the commercial sexual exploitation of children had mobilized States to take action. Following the Stockholm Congress, he had been placed in charge of coordinating the preparation and implementation of a government plan of action to combat sexual violence against children.

60. Democracy and fundamental freedoms had been restored in many countries, as exemplified by the peace agreements in Guatemala, the elections in Mozambique and the implementation of some aspects of the Dayton Accords in the former Yugoslavia. The High Commissioner for Human Rights and the Centre for Human Rights had contributed greatly to those processes, despite the insufficiency of their human and financial resources, through their on-site human rights observation missions. He hoped that steps would soon be taken to open the Colombian office of the High Commissioner so that it could carry out its innovative mandate.

61. The Commission must address a number of areas to ensure the effective enjoyment of human rights. The post-cold-war world had witnessed the reawakening of nationalism, fanaticism and racial hatred, and all societies faced problems of intolerance and racism. Respect for freedom of expression had to be reconciled with the need to combat messages of hatred, xenophobia and intolerance, some of which called for violence, racial segregation or denial of the principle that all men and women were equal.

62. The Commission should pay as much attention to economic, social and cultural rights as it did to civil and political rights, since all of those rights were indivisible and interdependent. The fight against poverty and exclusion and the right to development were an integral part of the task of defending human rights. People were not free if they lacked employment, housing, decent living conditions, education, health care and social services. He had submitted to his own Government a bill on social cohesiveness which would give marginalized groups access to health care, employment and housing and safeguard their voting rights.

63. He was especially concerned about the fate of the many human rights defenders and members of humanitarian organizations who risked their freedom or their lives to uphold the ideals affirmed by the Commission. In that connection, he paid tribute to the memory of the four staff members of the International Committee of the Red Cross (ICRC) who had been murdered in Burundi, the three members of Médecins du Monde and five human rights observers killed in Rwanda and the six ICRC staff members who had died in Chechnya. A draft declaration on the rights of human rights defenders had been under consideration by a working group of the Commission for 12 years; he hoped that the Commission would show a firm commitment to that and all other initiatives designed to protect such persons.

64. The relations between States on the issue of human rights were defined in the Commission. Serious violations of universally recognized human rights must be vigorously condemned, regardless of where they occurred, but

expressions of condemnation must be accompanied by a dialogue. It was important to show that development and growth were linked to the progress of democracy and freedom and to pursue long-term efforts to promote democracy and the rule of law not only in emergency and transitional situations, but also on a day-to-day basis.

65. States must cooperate with the international mechanisms for the protection of human rights, including the Commission and the human rights treaty bodies. France would be particularly vigilant in upholding the mandates of the treaty bodies which came up for renewal at the current session.

66. The Commission must look beyond its own activities to propose ways of promoting human rights throughout the United Nations system and in the domestic and foreign policy of States. In that connection, he welcomed the establishment of national human rights institutions in a growing number of countries. The Commission should also emphasize the important role of civil society and seek ways to strengthen its relations with the latter, inter alia by supporting the participation of NGOs in its debates and strengthening their capacity to take initiatives. For its part, his delegation would continue to honour the commitments made in the 1993 Vienna Declaration and seek practical ways of addressing human rights issues.

67. All States that had not yet done so should be encouraged to ratify the major human rights instruments, and the Centre for Human Rights should be adequately funded; the allocation of 2 per cent of the regular budget of the United Nations would be a reasonable objective in that regard.

STATEMENT BY THE DEPUTY MINISTER FOR FOREIGN AFFAIRS OF ITALY

68. Mrs. TOIA (Italy), having endorsed the statement by the spokesman for the European Union, said that protecting human rights required coordinated action by Governments and NGOs alike. The members of the European Union, united by shared values, considered that such action must be based on the fundamental dignity of every human being, which was at the heart of every culture, religion and civilization, and which was enshrined in many international agreements. The universality of human rights did not, however, preclude a variety of approaches to defending human dignity and the sanctity of human life.

69. Her Government had thus chosen to take the initiative on the abolition of the death penalty, a move deeply rooted in the humanist tradition of the Italian people. It was convinced that, if a higher degree of respect for the sanctity of human life was to be established, the death penalty must be abolished. Furthermore, it believed that that was a realistic goal, which could be achieved by the systematic implementation of existing rules that already, for example, made it inadmissible to carry out the death penalty on certain categories of people, such as minors, pregnant women and the mentally ill.

70. The goal her Government had set itself was a very specific one: to increase the number of States acceding to or ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights. It also hoped to persuade those countries that held different views to agree to a moratorium on executions.

71. Her delegation would submit draft resolutions on Somalia and Afghanistan for the consideration of the Commission. Fighting had left those two very different countries without Governments capable of exercising control over the whole territory or enforcing human rights. That grave problem did not mean that the human rights of the peoples of those two countries could be ignored by the international community, particularly when the suffering of the most vulnerable was only too evident.

72. Despite the difficult conditions in those countries, she believed that it was possible to devise a strategy to promote human rights there. In the first place, efforts should be focused on establishing the rule of law, since order, in however rudimentary a form, was a prerequisite for the protection of human rights and the rebuilding of the country concerned. Secondly, human rights should be integrated with humanitarian issues, as the Secretary-General had recently suggested. While material survival must remain the highest overall priority, the international community could not ignore such serious acts of discrimination as those practised against women in some areas of Afghanistan.

73. A comprehensive and integrated approach to human rights, in which physical survival was not viewed in isolation from the dignity of individuals, and which required a basic legal and economic framework within which to operate, was the basis for responding to prolonged conflicts and obstacles to reconstruction and development.

74. Human rights issues could be important to people in their daily lives and so overcome the reluctance of those who, wrongly, attempted to deny their universality or even to portray them as incompatible with more urgent considerations, such as the need for peace, order or food.

75. In conclusion, she wished to draw attention to her delegation's draft resolution on the importance of disseminating information on human rights; the forthcoming fiftieth anniversary of the Universal Declaration of Human Rights would be an opportune moment for a widespread campaign to raise awareness of human rights. Also, the undoubted commitment of the High Commissioner, the Centre for Human Rights and the Department of Public Information to that goal should receive fresh impetus within the framework of the United Nations Decade for Human Rights Education.

76. Mr. LI Baodong (China), speaking in exercise of the right of reply with respect to the statement by the Minister for Foreign Affairs of the Netherlands, said that the historical human rights record of the Netherlands was by no means glorious, its colonialists having violated human rights on a massive and systematic scale for several centuries. The spokesman for the European Union had also omitted to mention the recent notorious case of

paedophilia in a member State of the Union, which had shocked people throughout the world, preferring instead to set himself up as a teacher haranguing the representatives of developing countries.

77. Such behaviour was intolerable. The first and foremost principle of the Charter of the United Nations was sovereign equality. The Netherlands Minister was in no position to admonish others, and would do better to concentrate on reviewing the ignoble human rights record of his own country and on tackling the human rights problems within the European Union.

78. Mr. ABUAH (Observer for Nigeria), speaking in exercise of the right of reply with respect to the statement made by the Minister for Foreign Affairs of the Netherlands on behalf of the European Union, said that the 1993 election in Nigeria had proved inconclusive and it was therefore inaccurate to speak of anyone having been elected. It was also incorrect to speak of Chief Abiola as being in captivity; Chief Abiola was currently in custody awaiting trial on a charge of breaking the laws of his country.

The meeting rose at 5.55 p.m.

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Fifty-third session

SUMMARY RECORD OF THE 6th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 13 March 1997, at 10 a.m.

Chairman: Mr. SOMOL (Czech Republic)

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GE.97-10934 (E)

The meeting was called to order at 10.10 a.m.

STATEMENT BY MR. CYRIL SVOBODA, VICE-MINISTER FOR FOREIGN AFFAIRS OF THE CZECH REPUBLIC

1. Mr. SVOBODA (Czech Republic) said that, on the eve of the celebration of the fiftieth anniversary of the Universal Declaration of Human Rights, human rights standards were still far from universally applied. Although a set of human rights conventions existed, the practice of reservations, whether for the purpose of reducing the scope of treaty obligations or the competence of the treaty-monitoring bodies, weakened them considerably. His Government urged States to consider lifting their reservations; it had withdrawn the reservation made by the previous regime to the effect that it did not recognize the competence of the Committee against Torture to accept individual petitions. In addition to fulfilling their obligations under the relevant international instrument, States should be open to the procedures of the various human rights mechanisms. Where the Commission was concerned, the primary requirement should be cooperation with the relevant special rapporteurs.

2. States should focus on consistent and effective implementation of existing mechanisms and instruments. Conflict situations had revealed inconsistencies in the application of existing standards and gaps in the system of general international law. There was no doubt that the establishment of international war crimes tribunals in the former Yugoslavia and Rwanda was a remarkable achievement, but those tribunals could not execute their mandates fully if the States concerned did not fulfil their obligations regarding the prosecution and extradition of suspects. It should be noted, moreover, that the tribunals were ad hoc organs and, considering the frequency and seriousness of armed conflicts in various parts of the world, there was a widely-felt need to establish a permanent international criminal court. In that connection he mentioned the positive results achieved by the Preparatory Committee on the establishment of an international criminal court. His Government hoped that an international conference on the subject would be held in 1998.

3. Another theme which merited special attention from the international community was the protection of children. His Government supported the work of the open-ended working group on a draft optional protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts. It also hoped to see progress in the work on the sexual exploitation of children and, to that end, had hosted a visit by the Special Rapporteur on the sale of children, child prostitution and child pornography. It supported the working group for the preparation of the relevant optional protocol to the Convention on the Rights of the Child.

4. The international community had a role to play in conflict prevention. One of the effective devices for doing so was the United Nations system of human rights field operations, especially those in Cambodia, Georgia, the former Yugoslavia, Rwanda, Burundi and Zaire.

5. Despite the differing interpretations of the concept of the universal nature of human rights, it was essential for States to forget their cultural, political and economic differences and work together in a spirit of cooperation on issues of concern to all.

STATEMENT BY MR. ISMAËL TIDJANI-SERPOS, MINISTER OF JUSTICE, LEGISLATION AND HUMAN RIGHTS OF BENIN

6. Mr. TIDJANI-SERPOS (Benin) said that it was all the more important for the Commission to continue the campaign it had been waging for over 50 years in defence of human dignity and individual freedoms, as human rights continued to be under serious threat throughout the world. Large-scale and persistent violations of human rights continued to be the source or consequence of continuing ethnic, racial and religious tensions in some parts of the world, especially Africa and particularly in many countries of the Great Lakes region.

7. Convinced as it was that all States, whatever their political system, economic level or cultural particularities, were bound to protect, respect and promote human rights and fundamental freedoms, his Government worked actively to promote human rights in the framework of strengthening the democratic experiment begun with the February 1990 National Conference of key sectors of society. It was currently working to put into practical effect the conclusions of the General Judicial Conference and the National Economic Conference, held in November and December 1996 respectively, with a view to strengthening the legal and economic foundations for the emerging democratic State. The Conferences had enabled people in all of the country's social and professional categories to propose solutions for increasing the legal security indispensable for the effective enjoyment of freedoms and for sustainable economic and social development.

8. The universal and indivisible nature of human rights had been affirmed in various international instruments and reaffirmed at the major summits and conferences held in recent years. Particular mention should be made of the conclusions of the World Conference on Human Rights, held at Vienna in 1993, and the Fourth World Conference on Women, held in Beijing in 1995, which had stressed the fact that the fundamental rights of women and girls were an integral and indissociable part of the universal rights of the human person and indicated the steps that should be taken to eliminate all forms of discrimination based on sex. Everything possible should also be done to ensure respect for the rights of children and to combat all forms of exploitation of children throughout the world. Benin, which had ratified the Convention on the Rights of the Child on 3 August 1990, had introduced a national policy for the protection and promotion of children, notably by developing a national programme of action on behalf of women and children and establishing a committee to coordinate and monitor it.

9. Commission resolution 1996/15 on the right to development and Economic and Social Council resolution 1996/43 on strengthening collaboration between the United Nations development system and the Bretton Woods institutions, attested to the international community's increasing commitment to the right to development. It was time for that commitment to be reflected in the

adoption of practical measures to implement that right. The Economic and Social Council resolution was an instrument for revitalizing and diversifying international cooperation. International solidarity should make it possible to reduce poverty, defined as the non-satisfaction of vital material and cultural needs, and establish a balance in the distribution of the planet's wealth as a guarantee of international peace and security when economic globalization was inexorably dividing the world into "haves" and "have-nots". The implementation of the measures recommended in the resolutions on the right to development would narrow the gulf between North and South and that which was developing between the South and the giant economic groupings being formed by the developed nations. Realization of the right to development required genuine solidarity based on a redefinition of the legal bases for international assistance.

10. Being convinced that poverty was a serious obstacle to the development of human rights, his Government had designed its strategy around the concept of a society's minimum needs, or the set of goods and services needed by a community of people to subsist and to participate in human development. It comprised four basic components: food security, basic education, access to primary health services and development of wealth generating capacity. That approach was based on the human development index, a global measurement instrument proposed by the United Nations Development Programme (UNDP), which focused development on the human person and not solely on the accumulation of income and wealth.

11. Like the right to development, the right to work deserved the attention of the international community because enjoyment of that right had a key role to play in the campaign against poverty. It was thus important to combat the unemployment that was currently proliferating throughout the world, across all systems and regions, and which was persistent enough to shake the fragile foundations of the young democracies. As stressed by the Copenhagen World Summit for Social Development, it was necessary to define and implement a new world social system incorporating new paradigmes capable of resolving the crisis in man's relationship with his economic, natural, political, social and cultural environment.

12. The right to freedom of thought and religion, universally recognized as a source of culture and peace among communities, presupposed tolerance and respect for the opinion of others. Only an eceumenical approach would make it possible to prevent peoples from turning to extremism as they were doing in certain parts of the world. For that reason, his Government appealed to the international community to take action to promote a more intense social and cultural dialogue among peoples and among the different population groups living in a single territory.

13. Since the adoption of the Universal Declaration of Human Rights, the international community had, in the aggregate, made considerable progress in defining standards for the enjoyment and protection of human rights and fundamental freedoms. Benin, where democratic values had prevailed since 1990, was preparing to celebrate the fiftieth anniversary of the Universal Declaration in a fitting manner; it would be the occasion for a critical assessment of the Declaration in the light of practice, with a view to publicizing it and strengthening its application.

14. The assistance which the United Nations had provided to his Government, in the framework of the just completed programme of technical cooperation in the field of human rights had helped to promote better understanding of international human rights standards in public opinion, especially among judges, lawyers, police officers, military personnel, journalists and representatives of human rights defence organizations. The programme had undoubtedly helped to strengthen the democratic process in Benin, but it had primarily affected the urban intellectual and political elites. Its scope should therefore be expanded to enable all citizens to become aware of their rights and to report any violations thereof. His Government hoped therefore that the next programme of technical cooperation in Benin would place particular emphasis on initiatives and activities to implement a civic education programme in the schools and conduct a national campaign to increase awareness of human rights.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE (agenda item 4) (continued) (E/CN.4/1997/13-16, 107, 109, 111, 116, 117).

15. Mr. PELL (United States of America) said that the protection of human rights was not only a question of preparing and adopting legal texts but also of measuring achievements against the standards set. The Commission, which had been assigned that noble task 50 years previously, should rededicate itself to the ambitious objectives set forth in the Universal Declaration of Human Rights.

16. Everyone had agreed for years that the Commission's heavy agenda should be reorganized. In his view, item 4 should be removed from the agenda since it was no longer justified, given the peace process under way in the Middle East. Considerable progress had been made in the situation since 1991 and he failed to see why Israel should be singled out for special treatment. Israel, a functioning democracy, had already embraced peace with Egypt and Jordan and had engaged in a political process with the Palestinians which was enabling them gradually to gain control over their lives. Israel should not be immune to the Commission's scrutiny any more than any country, but neither should it be given special treatment as the Commission was doing. After seeing the same old anti-Israeli resolutions come to the floor, he wondered whether their sponsors had heard of the peace process, of the ties Israel was building with countries throughout the region, of the drastic drop in the level of confrontation between Israelis and Palestinians and the fact that most Palestinians were currently in charge of their daily lives. Respect for human rights was certainly not perfect in the West Bank and Gaza, but neither was it perfect in the areas under the control of the Palestinian Authority. The Commission's task was to encourage progress rather than impede it through unhelpful resolutions which ran counter to the facts.

17. The United States was firmly committed to the Middle East peace process, which had already borne fruit. The Israelis and Palestinians were approaching the most difficult set of issues - the permanent status negotiations - but it was for the parties themselves to come to a decision and the international community should not interfere. At a time when a just, lasting and comprehensive peace in the Middle East might be within reach, the Commission should not be an obstacle on the road to peace.

18. Mr. HISHAMMUDIN (Malaysia) said that, despite numerous resolutions adopted by the Security Council, the General Assembly and the Commission, the reports of the Special Rapporteur and the findings of the Special Committee to Investigate Israeli Practices affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories, Israel had been showing complete disregard for the views of the international community for 30 years and had recently decided to begin building a new settlement in East Jerusalem in an attempt to modify the city's demographic composition and pre-empt the outcome of negotiations on its final status. That was not the way to advance the peace process.

19. Certain indications, such as the signing of the Hebron Protocol, gave rise to cautious optimism regarding the process, but the mutual trust and cooperation needed for it to be considered on the right track were lacking. The question that the Commission had to ask itself, therefore, was whether it had the will to carry out the responsibilities entrusted to it as the conscience of the international community on the human rights issue and to ensure that some countries, acting on geopolitical and economic considerations as recently seen in the Security Council, did not jeopardize its credibility.

20. His Government could not accept the illegal measures adopted by Israel in occupied East Jerusalem, for Jerusalem was of great spiritual importance not only to the Jews but also to the Islamic and Christian communities, and must not be monopolized by a single political or religious camp.

21. His delegation took the view that the pursuit of a political agenda alone would not guarantee peace and security for the people of the occupied Arab territories. As the Special Rapporteur had said, economic and social development was critical for improving the human rights situation in the region. Human rights could not be put on hold pending the outcome of the peace negotiations. It was time to end the violence inflicted on the population: brutal treatment of detainees during interrogation - legitimized by the Israeli High Court, the policy of enforcing collective punishment through the destruction of houses, closure of the occupied territories and closure of educational and social organizations.

22. His delegation was saddened by the fact that certain influential governments had responded to the persistent and serious violations in the region by using a double standard, which had resulted in a certain cynicism regarding the international community's will to find a lasting solution. It hoped that the Commission on Human Rights and others, including the non-governmental organizations, would redress that perception.

23. Mr. HYNES (Canada) congratulated the Special Rapporteur on his report on the situation of human rights in the Palestinian territories occupied since 1967 (E/CN.4/1997/16), but maintained the view that, given the development of the situation, the question should no longer be treated as a separate, permanent item of the Commission's agenda.

24. Canada encouraged the efforts of various organizations, including the International Committee of the Red Cross (ICRC) and UNRWA, to improve the human rights situation in the West Bank and the Gaza Strip. Its own development assistance programmes specifically targeted good governance,

democracy-building and human rights. They had, for example, made it possible to bring together Israeli and Palestinian human rights lawyers and activists. A delegation from the Palestinian Legislative Council would shortly be visiting the Canadian Parliament to learn more about the Canadian experience in democracy and human rights. His Government had supported the efforts of both Israel and the Palestinians towards achieving peace and noted with satisfaction the progress made, especially the Oslo Agreements and the Protocol concerning the Redeployment in Hebron.

25. Since a lasting peace depended on enduring respect for human rights, his delegation believed that the complexity of the task of both Israel and the Palestinian Authority was not a justification for flouting the rights of the population of the West Bank and Gaza. The provisions of the Fourth Geneva Convention should be applied to the occupied territories until a comprehensive peace accord was concluded on the basis of Security Council resolutions 242 (1967) and 338 (1973); the accelerated construction of Jewish settlements, especially in East Jerusalem, must end; and the many restrictions on the freedom of movement of Palestinian residents must be lifted, as they undermined the trust that was the very foundation of the peace process. The ill-treatment of Palestinian detainees in Israeli prisons must be brought to an end. Such treatment, endorsed by the High Court of Israel through its decision to lift the interim injunctions prohibiting the use of physical force during interrogation, was illegal under international law and did nothing to advance the cause of peace. He urged Israel to abide by the Convention against Torture, which it had ratified in 1991.

26. The Palestinians, like the Israelis, must work towards peace while respecting human rights, but the Palestinian Authority, too, had a poor human rights record: murder by torture of at least one political prisoner, deaths of detainees in Palestinian police custody, arbitrary arrests, prolonged detention of hundreds of political prisoners, secret and summary trials and attempts to intimidate the Palestinian judiciary and leading human rights activists by the Palestinian security forces. In view of that sad record, he welcomed the vote by the Palestinian Legislative Council to establish c[illegible]lian oversight over the Palestinian security forces.

27. His delegation believed that the best guarantee for respect of human rights lay in the establishment of responsible, democratic government and normal peaceful relations. The day was long past when human rights could be regarded as internal affairs, beyond the scrutiny of the international community. It was the duty of the international community, avoiding unfounded allegations and acting in a constructive spirit, to denounce violations of human rights wherever they occurred and to hold the concerned authorities accountable.

28. Mr. KOEZUKA (Japan) said he welcomed the progress made in the Middle East since the Madrid Conference in October 1991 and particularly the Declaration of Principles on Interim Self-Government Arrangements adopted by Israel and the Palestine Liberation Organization and the peace treaty between Israel and Jordan.

29. The road to peace was not a smooth one, however. The redeployment of Israeli troops, the status of Jerusalem, the refugee situation, the

demarcation of borders and the threat of terrorism were difficult issues that could be resolved only if all the parties concerned refrained from any action that would harm the prospects for peace. The role of the international community was to give the parties all the help it could.

30. His Government had endeavoured to help restore peace in the region, which was vital to international peace. It had directly encouraged the leaders of the parties concerned to promote the peace process, had extended more than US$ 250 million in economic assistance to the Palestinian Authority; and had promoted multilateral talks on the environment, tourism and water resources; when the election for the Palestinian Council was being held, it had sent a delegation of 77 observers. It had also contributed Japanese Self-Defence Force contingents to the United Nations Disengagement Observer Force (UNDOF) in the Golan Heights to participate in peacekeeping operations.

31. The goal of the peace process was not simply the cessation of hostilities, but rather the creation of an environment in which all the peoples of the region could live in peace and enjoy a decent life; the only way to reach that goal was to move the peace process forward and promote regional cooperation, which Japan was pledged to do.

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (agenda item 7) (continued) (E/CN.4/1997/23 and 24; A/51/392)

32. Mr. LIU Xiansheng (China) said that the right of peoples to self-determination referred in essence to the right of oppressed nations to liberate themselves from imperialist and colonial rule. Pursuant to the Declaration on the Granting of Independence to Colonial Countries and Peoples, peoples were entitled freely to determine their political status and pursue their economic, social and cultural development. The history of international relations since the Second World War demonstrated that, when a sovereign State was subjected to aggression and foreign occupation, there was no respect for human rights and fundamental freedoms to speak of. A country which imposed its ideology, social system and development model on others, which domineered over weaker countries, violated not only the principle of self-determination but the Charter of the United Nations itself and should naturally be condemned by the international community.

33. The Declaration clearly delimited the scope of application of the principle as covering "colonies", "dependencies" and "trust and non-self governing territories" which had not yet attained independence. It condemned "any attempt aimed at the partial or total disruption of a sovereign State and the territorial integrity of a country", a principle that was reaffirmed in the Vienna Declaration and Programme of Action.

34. It was within a country's exclusive competence to deal with problems concerning ethnic groups; that was not a matter of self-determination. Accepting it as such would mean partitioning all multinational countries and ending peace and security in the world.

35. The Commission and General Assembly had been paying increasing attention in recent years to the correct interpretation of the right to self-determination, which was defined in the Charter of the United Nations and other relevant international human rights instruments.

36. The restoration of the Palestinian people's rights, including their right to self-determination, and a just and reasonable solution to the question of Palestine were the key to the realization of peace and stability in the Middle East. His delegation hoped that the parties concerned, guided by the principle of "land for peace" and based on the relevant resolutions of the United Nations, would strive for a comprehensive, just and lasting settlement to the Middle East question through political negotiations.

37. Mr. NAZARIAN (Observer for Armenia) said that the right of peoples to self-determination was the cornerstone of the community of States and the United Nations system. The majority of States had stemmed from the realization of that right. That right was defined as belonging to "all people", regardless of the size of their territories and their population. Under international law, every nation exercised that right on an ongoing basis. It was meaningless to assert that it could be exercised only once. Furthermore, combating the exercise of the right to self-determination by military force gave rise to situations of conflict and aggression, with their concomitants of destruction, refugee problems, starvation and death. Such acts ultimately constituted violations of human rights.

38. It was important to reaffirm the lasting and inalienable nature of the right to self-determination, for interpretations limiting its exercise in time and space were frequently heard. "New experts", rejecting the clear statement in the Declaration on the Granting of Independence to Colonial Countries and Peoples, that all nations had the right to self-determination, maintained that the right to self-determination could be exercised only once and became obsolete once States had gained independence, or else tried to restrict the scope of its application within their territory. Others, quoting the Charter of the United Nations, held that the principle of the territorial integrity of States should take precedence over the principle of the right to self-determination. The Charter, however, spoke of territorial sovereignty of States in relation to the non-use of force between States, independently of the right to self-determination. Finally, according to the Helsinki Final Act, all principles contained therein were interrelated and could not be interpreted separately.

39. He condemned that attempt to question a principle of international law which had resulted in the creation of nearly 200 independent States and which, inter alia, guaranteed the rights of the individual, which was the key subject of the Commission's work.

40. Mr. TARMIDZI (Indonesia), speaking on behalf of the member States of the Organization of the Islamic Conference (OIC), appealed to the international community, particularly the sponsors of the Middle East peace process, to ensure the success of the process through the effective implementation of General Assembly and Security Council resolutions. He invited the Commission to compel Israel to implement all the agreements concluded and to enter into

serious negotiations on the final status of the Palestinian territories. He also urged all States to extend their support to the international programme on economic, social and cultural development in the occupied Palestinian territories.

41. It was unfortunate that the current Israeli Government had reneged on the commitments made by the previous Government, in particular to withdraw from the occupied Syrian Golan to the line of 4 June 1967. Israel must also be compelled to implement Security Council resolution 497 (1981) and resume in the near future the negotiations concerning the Golan as part of the Middle East peace process.

42. Mr. AMAT FORES (Cuba) said that, in the 1950s and 1960s, the right to self-determination had essentially been exercised to end the heinous colonial system. Nevertheless, the right still remained entirely valid, since although colonialism had disappeared as a system, it was still present in no less pernicious forms. The developing countries, in particular, were the target of new policies of domination, on the pretext of a so-called right of humanitarian interference, and attempts by powerful States to force foreign models on them in the name of universal archetypes.

43. Peace in the world required respect for nations, for their territorial integrity, their ethnic and cultural diversity and their political plurality. The exercise of the right to self-determination was a prerequisite for the realization of all human rights. It was meaningless to speak of human rights while foreign domination and occupation persisted.

44. His Government reaffirmed the right of the Palestinian people to self-determination and demanded that Israel restore unconditionally all the Arab territories it was occupying, including the West Bank, Gaza Strip, Syrian Golan and the occupied portion of southern Lebanon. For its part, it would continue to demand the restitution of the territory of the Guantánamo naval base, unlawfully occupied by the United States of America, and to ask that country to end its 37-year-old policy of hostility towards Cuba.

45. It was unfortunate that, when considering the agenda item on the right of peoples to self-determination, the Commission had not had before it the report of the Special Rapporteur on the question of mercenaries, Mr. Bernales Ballesteros, whose valuable work had raised the international community's awareness of that problem. The Government of Cuba hoped he would continue his work, in particular the work on the new forms of mercenarism and especially the unlawful activities of individuals against their own country in the service of a foreign Power.

46. Mr. HAUGESTAD (Observer for Norway) said that his country viewed the two agenda items under consideration in the context of the Middle East peace process. His delegation expressed sincere appreciation for the Special Rapporteur's high-quality report on the situation of human rights in the Palestinian territories occupied since 1967 and shared the Special Rapporteur's view that his mandate should be adjusted to take the peace process into account. The mandate should, in future, encompass both

self-governing and occupied areas. Close cooperation with both Israeli and Palestinian authorities was required, as well as with local non-governmental organizations.

47. The Oslo Agreements, which provided for the establishment of democratic institutions and respect for human rights, laid the foundations for the self-determination of the Palestinian people. The ultimate goal of the peace process would be attained when Palestinian and Israeli civil societies lived side by side in peace and security. His Government urged both sides to refrain from any unilateral measure designed to pre-empt the outcome of the final status negotiations. It was important to safeguard both the letter and the spirit of the Oslo Agreements. In that connection, his delegation deeply regretted the decision of the Israeli Government to build new settlements in East Jerusalem.

48. His delegation was pleased that the democratically-elected Palestinian Legislative Council was actively discussing human rights issues. The local Palestinian elections should strengthen the development of democratic institutions and practices still further. It was reassuring that that important work was being given high priority by the Palestinian Authority, which was responsible for dealing with human rights issues. The parties should promote understanding between their peoples and advance the negotiations; only then could human rights be fully protected.

49. Mr. AKRAM (Pakistan) said that the right of peoples to self-determination was a fundamental principle of the Charter of the United Nations and a basic human right. Pakistan thus reaffirmed its commitment to the cause of the Palestinian people. Faithful implementation of the peace accord could bring the Palestinians closer to their ultimate objective of realization of their right to self-determination. Unilateral actions could not but harm the peace process, and his delegation fully associated itself with the concerns expressed at a previous meeting by the Chairman of the Organization of the Islamic Conference regarding Israel's decision to build a new settlement in the Jabal Abou Ghaneim sector in Al Quds al Sharif (Jerusalem).

50. The principle of self-determination had been the fundamental basis for the partition of the Indian subcontinent and the emergence of India and Pakistan as separate sovereign States in August 1947. The people of the State of Jammu and Kashmir also wished to exercise their right to self-determination, as recognized by the United Nations in numerous resolutions adopted by the Security Council since 1948. Pakistan and India had committed themselves to respecting those resolutions, which remained valid and were the only agreed basis for a resolution of the Kashmir dispute. The Simla Agreement of 1972 provided for a final settlement of the Jammu and Kashmir question through bilateral negotiations between India and Pakistan; Simla had not extinguished the Kashmiris' right to self-determination. Furthermore, self-determination for Kashmir could not compromise the territorial integrity of either Pakistan or India, since a people that had not yet exercised its right to self-determination could not become an integral part of a State.

51. As the Security Council stipulated in resolutions 91 (1951) and 122 (1957), "the final disposition of the State of Jammu and Kashmir will be made in accordance with the will of the people expressed through the democratic method of a free and impartial plebiscite conducted under the auspices of the United Nations", and unilateral actions, such as the convening of a so-called constituent assembly in Kashmir, would not constitute a disposition of the state in accordance with the democratic principle in question. For that reason, the Kashmiri leadership and the people of Jammu and Kashmir had rejected the so-called elections organized in Indian-held Kashmir and their predetermined outcome.

52. The granting of autonomy could not serve as a substitute for the right of a people under foreign occupation or colonial domination to seek freedom and genuine self-determination. That right had been forcibly denied for decades in Kashmir, where large-scale human rights violations had been regularly committed by the Indian security forces since 1990. Despite their sufferings, the Kashmiri people were resolved to continue their struggle for self-determination, which had led to rising tensions in relations between India and Pakistan. Nevertheless, immediately after assuming office, Prime Minister Nawaz Sharif had underlined his Government's desire to promote cooperative and neighbourly relations with India and strive for a peaceful settlement of the dispute over Kashmir through negotiations. At the initiative of the Government of Pakistan, talks between the Foreign Ministers of Pakistan and India would be held from 28 March 1997 in New Delhi.

53. It was Pakistan's desire to seek a genuine and just political solution to the Kashmir dispute, which was the main cause of tension and conflict in the region. It was convinced that such a solution could open the door to an era of peace and prosperity in South Asia.

54. Mr. KIRKYACHARIAN (Movement against Racism and for Friendship Among Peoples) said that there could be no limits on the right to self-determination other than those set by those who held that right, namely, human beings. It could not be politicized, for legitimately political issues, rather than what was in the realm of mere fact, had to be defined in terms of freedom. In a large number of specific problems, for which the Governments concerned would gradually be led to accept certain solutions, much would be gained both politically and from a human point of view if those involved took as their reference point the principle of self-determination, which was the very foundation of freedom.

55. An illustration could be found in the situation of certain peoples or population groups which were being denied the right to self-determination but persisted in defining themselves as peoples. That was the case for the two million individuals living in Kosovo; the Sahrawi people, whose right to self-determination had been recognized by the United Nations; the Palestinian people and the Timorese people, whose tiny territory had been occupied and ruled over repressively for over 20 years by a very powerful neighbour. He expressed the hope that the awarding of the Nobel Peace Prize to two of that small country's leading figures for their work towards self-determination would enable the Timorese to live freely and establish normal, even friendly, relations with the neighbour in question. Meanwhile, at the very gates of Europe, a large republic was waging a merciless war in the provinces to the

east of its territory against a population that was overwhelmingly in the majority there while, south of the Caucasus, a small valley had been subjected to a bloody war because its population, undeniably Armenian for centuries, wished to determine its own destiny.

56. His organization asked the Commission to make a very simple statement to the effect that the right to self-determination was the very foundation for politics and also the fastest way to end the bloody legacy of past centuries.

57. Mr. NADARAJAH (International Educational Development Inc.), speaking also on behalf of the Centre Europe-Tiers Monde, the International Indian Council, the Transnational Radical Party and several national NGOs, drew the Commission's attention to the situation of the Tamil people who had been struggling for self-determination in Sri Lanka for decades, and who had had to take up arms in 1983 in response to violent repression from successive Sri Lankan Governments since 1956. The Tamil people had lived from ancient times within relatively well-defined geographical boundaries in the north and east of the island and shared a heritage, vibrant culture and living language. From their years of struggle against oppressive Sinhalese rule they had also acquired a political consciousness and a feeling of specific identity as a people with a right to self-determination. The war had forced hundreds of thousands of Tamil civilians to seek refuge in the areas of the Tamil homeland that remained in the control of the Tamil resistance. Sri Lanka's continuing economic blockade of those areas violated the rules of humanitarian law regarding food and medicine for civilian populations. In addition, Tamil villages had been bombarded and Tamil women raped by Sri Lankan troops, and arbitrary arrests, torture and custodial deaths were widely reported in the areas under Sri Lankan military control.

58. In the best interest of peace and realization of all human rights and fundamental freedoms, including the right to self-determination, the Commission should call upon the Government of Sri Lanka to withdraw its military forces from the Tamil territory in the north-east of the island and call upon the two parties to the conflict to secure a political solution with full recognition of the right of the Tamil people freely to determine their political status.

59. Mr. HALEPOTA (Liberation) said that self-determination was an inherent and inalienable right of all peoples; its denial inevitably resulted in uprisings and violence as had been seen in Palestine, Chechnya, Kashmir and Sindh. In Sindh, which was inhabited by nearly 45 million people, the heirs to one of the world's oldest surviving civilizations were under threat of extinction from terrorism, deliberate cultural dilution, settlement of illegal immigrants and continued military occupation by the Pakistani authorities in disregard of human rights. That situation had been reported by both the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on questions relevant to torture, who noted in his report (E/CN.4/1997/7/Add.2) that, in the province of Sindh, there had been 62 recent deaths in custody, probably as a result of torture. The father of the Sindhi nation, G.M. Syed, had died in custody on 25 April 1995, after being detained for more than 30 years for defending the right of the Sindhi people to self-determination. He himself had been forced into exile.

60. The Pakistani authorities were confiscating Sindhi land, looting mining and water resources and closing down Sindhi schools. That was why the Sindhis had lost all confidence in the Pakistani political system and had ceased to participate in elections.

61. Stability could not be ensured in that region of strategic importance for world peace unless the violations of the human rights of the Sindhi people were stopped. It was essential that an impartial United Nations fact-finding mission be sent to the area and that immediate measures be adopted to ensure that the Sindhis could contribute to the peace, progress and stability of the region. His organization appealed to the international community to support Sindh in its peaceful struggle against neo-colonialism and the occupying authorities.

62. Father JAEGER (Franciscans International) said that the Israeli-Palestinian peace process was a source of hope for both nations, notwithstanding the difficulties and repeated setbacks. At the same time, it must not be limited to questions of political, military or economic power; to bring about true peace, it must include a priority human rights dimension. Both nations should be given assistance to implement human rights at both the constitutional, legislative and administrative levels. The Commission had its role to play in helping both nations to develop high priority educational programmes. Human rights education, emphasizing freedom of religion and conscience and non-discrimination, was the key to a genuine reconciliation and a true peace in the Holy Land, as indeed anywhere else.

63. As a Catholic organization, Franciscans International was firmly committed to the well-known positions of the Holy See on the peace process, particularly those regarding the rights of both peoples and the need for an internationally guaranteed special statute for Jerusalem.

64. Mr. PARY (Indigenous World Association) said that the countless works written, resolutions passed and demagogic statements made on the right of peoples to self-determination had merely concealed its true political and historical nature. And yet the explicit recognition of that principle - without restrictions or conditions - was the cornerstone of all the rules of international law which laid down the treaty obligations of States and determined their capacity for establishing relations of peaceful coexistence and international cooperation. It was particularly regrettable in that connection that the legitimate right of the Palestinian people to self-determination continued to be flouted by Israel, which was pursuing its policy of establishing settlements against the wishes of the international community.

65. Customary law showed that self-determination had always been a matter for peoples rather than States, for it related to the freedom and dignity of human beings and did not lend itself to bargaining. States simply had to recognize that legitimate right and guarantee its free exercise in accordance with the relevant international conventions and instruments.

66. The draft declaration on the rights of indigenous peoples was also directly based on that principle, which was so crucial to the survival of those peoples and the recognition of their fundamental freedoms and rights.

67. The major national liberation movements that had emerged almost everywhere in the world following the decolonization process had inspired the international community with the ideals of peace and human dignity. In resolution 1540 (XV) of 14 December 1960, entitled "Declaration on the Granting of Independence to Colonial Countries and Peoples", the United Nations General Assembly had established the legal foundations for the right to self-determination, pursuant to which colonized and dependent peoples freely determined their political status, freely pursued their economic, social and cultural development and had full control over their natural resources. That right was, in fact, the basis for the effective achievement of all other fundamental rights and freedoms. Articles 1, 2 and 55 of the Charter of the United Nations, which established the need to "develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples", were undeniably of universal scope. In other words, they were the prerequisite for the relations of international cooperation that were the raison d'être of the United Nations.

68. In a State subject to the rule of law, the principle of self-determination - whether that of Palestinians, Chechens, Kurds or Indians - should be regarded as a natural component of contemporary international law designed to redress an age-old injustice and enshrined in national constitutions and legislation. All policies aimed at thwarting the will of subjugated peoples to take charge of their own destiny with dignity and under conditions of equality were in reality nothing more than irrational, unjust and discriminatory acts, incompatible with the Charter of the United Nations.

69. Ms. BRIDEL (International Association of Democratic Lawyers (IADL)) said that the Nagorno Karabakh region, which had been inhabited by Armenians since time immemorial and wrongfully appended to the Soviet Republic of Azerbaijan, had been claiming its right to self-determination since 1988, in accordance with the principles of the Charter of the United Nations, reaffirmed in many General Assembly resolutions. It had been refused that right in 1991 by Azerbaijan, which had reacted violently by organizing pogroms against the Armenians. The ensuing war between Nagorno Karabakh and Azerbaijan had ended in 1994, but the ceasefire observed since then had not resolved the conflict. The principles for a settlement had been defined in a recent summit of the Organization for Security and Cooperation in Europe (OSCE), but the Azerbaijani leaders did not rule out the possibility of resuming hostilities, while their economic partners were primarily interested in secure ways of extracting and transporting oil.

70. IADL was convinced that recognition of the right of the population of Nagorno Karabakh to self-determination under democratic conditions was a prerequisite for peace and security in the region. It was essential that the elected representatives of Nagorno Karabakh should take part in genuine negotiations. IADL asked the Commission and the High Commissioner for Human Rights to take steps to that end.

71. Mr. H.K. SINGH (India) said that his Government's stand on the question of the violation of human rights in the occupied Arab territories, including Palestine, was well known. It had consistently supported a Middle East peace

process designed to secure the exercise of the inalienable rights of the Palestinian people, and it was particularly dismayed at recent events and their impact on the peace process. His delegation supported the appeal made by the Special Rapporteur, Mr. Hannu Haalinen, for a comprehensive approach to the issues of security, development, democracy and respect for human rights, for it agreed with him that human rights could not be set aside pending the outcome of the peace process.

72. Israel's continuing occupation of the Palestinian territories, the confiscation of Palestinian lands and property, collective punishments and the treatment of Palestinian prisoners, including the use of torture, were all obstacles to establishing an atmosphere of trust and identifying solutions to problems. The continuation of the settlement policy, with the announcement of the construction of a new Jewish neighbourhood at Jabel Abou Ghneim, to the south of East Jerusalem, was particularly disturbing. His delegation once again urged all the parties concerned to intensify their efforts to find a just, comprehensive and lasting peace in the Middle East, on the basis of the Security Council resolutions and the interim agreements. It firmly believed that the implementation of those agreements would be a considerable contribution to the enjoyment of human rights.

73. Mr. AHMAD (World Muslim Congress) said that the right of peoples to self-determination was a principle of jus cogens from which no State could derogate for any reason whatsoever. In that regard, his organization welcomed the peace agreement recently negotiated in Chechnya and the agreement signed between the Government of the Philippines and the Chairman of the Moro National Liberation Front, Nur Misuari.

74. The people of Kosovo had not been so lucky. After eight years of a non-violent campaign for self-determination, they had been refused their right to self-determination by the Belgrade authorities, who were transforming a just struggle into a violent confrontation. A large-scale catastrophe was in the making. In that respect, the Serbian authorities were following the example of India which, despite its claims to be the "biggest democracy in the world", was executing military operations in 17 different "disturbed areas". In Nagaland alone, it maintained an army of 250,000 soldiers who burned and looted villages and committed rapes and other barbarous acts to deny the Nagas' demand for self-determination. Fifty years previously, India had invaded and occupied Kashmir, and there was currently one soldier for every seven inhabitants in that region. The peaceful statement in 1953 of Prime Minister Nehru, to the effect that India would not hold any area by strength of arms, seemed, in hindsight, to have been a cynical subterfuge intended to gain time until the occupation was securely in place. The rigged elections in Jammu and Kashmir had never reflected the free will of the Kashmiri people, and the international observers had not been duped. To justify the acts of terror and human rights violations being committed by its irregular militias, India accused the Kashmiris of being secessionists and terrorists, but its real objective was to force the Kashmiri people to give up their demands out of sheer hopelessness.

75. Such actions must not be tolerated. International law prohibited the use of military force to deny a people its right to self-determination, and it was an international crime to violate that rule. The Security Council and the

Commission on Human Rights should combine their efforts to remind India of its duties under the Charter, the Universal Declaration of Human Rights and all the other international instruments and to ensure application of the Security Council decisions.

76. The CHAIRMAN invited the representative of the Netherlands to exercise his right of reply.

77. Mr. van WULFFTEN PALTHE (Netherlands) said that, in exercising its right of reply concerning the statement by the Minister for Foreign Affairs of the Netherlands at the previous meeting, the Chinese delegation had deliberately misrepresented the statement and interpreted a plea on behalf of human rights defenders as a harangue against developing countries. Rather than criticizing the substance of the statement, the Chinese delegation had resorted to the usual tired and well-worn references to colonialism. His delegation did not deny that human rights violations had taken place during the colonial period of its history, but the current Government, which had a strong commitment to the protection and promotion of human rights, could not be held responsible. He wondered when the Chinese Government would take responsibility for the current violations of human rights in China.

The meeting rose at 12.50 p.m.